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Department of the Interior
Minerals Management Service
Attention: Regulations and Standards Branch
381 Elden St. (MS- 4024)
Herndon, Virginia 20170-4817

Re: Chevron Comments on Proposed Rule Regarding Leasing of Sulphur or Oil and Gas and Bonding Requirements in the Outer Continental Shelf, RIN 1010-AD06, 74 Fed. Reg. 25,177 (May 27, 2009)

Ladies and Gentlemen:

Chevron U.S.A. Inc. (Chevron) appreciates the opportunity to provide comments to the Minerals Management Service (MMS) on the above-referenced proposed rule (the "Proposed Rule") covering leasing of Sulphur or Oil and Gas and Bonding requirements on the Outer Continental Shelf (OCS). Chevron holds over 725 oil and gas leases in the OCS and is highly active in the exploration and development of offshore traditional energy resources. Chevron considers it important that the MMS's regulations be crafted in a manner reflecting changes in government policy and industry technology while ensuring consistency and efficiency. The updating of existing regulations to address these changes is critical for the continued success of OCS operations. Chevron appreciates the MMS's efforts to keep their regulations current. Overall, the Proposed Rule is an improvement over the existing regulations. There is, however, one change in the Proposed Rule where the proposed new text unnecessarily deviates from longstanding policy and practice.

According to the Derivation Table for Proposed Rule, the regulation currently codified under 30 C.F.R. 256.47(g) is to be replaced with 30 C.F.R. 256.420 (c). This change is described as clarifying that the successful bidder may be held liable for the full bid amount even if it does not execute the lease. Proposed Rule 256.420(c) indicates that these circumstances will be identified in a sale's notice of sale. Chevron does not view Proposed Rule 256.420(c) to be a clarification of the current rule but a significant change.

Currently, reflecting a longstanding position, the MMS's rules hold that a "[successful] bidder [on an OCS lease] shall, not later than the 11th business day after receipt of the lease, execute the

lease, pay the first year's rental, and unless deferred, pay the balance of the bonus bid . . . ." 30 C.F.R. § 256.47(f) (2009). However, the sole penalty for a successful bidder's failure to execute the lease and pay the balance of the bonus bid is forfeiture of its deposit, which is typically set at 1/5th of the bonus bid amount. *See* 30 C.F.R. § 218.155(c) (2009) ("Failure to remit by EFT or as directed by the Secretary [of the Interior] within the time specified above will result in forfeiture of the one-fifth bonus bid amount and the lease will not be executed by the appropriate MMS official."). The language the MMS has required for many years on the OCS Bid Form refers only to the payment of the 1/5th bonus on all high bids ("It is understood that this bid legally binds the bidder(s) to comply with all applicable regulations, including paying the 1/5th bonus on all high bids, as provided in the Final Notice of Sale").

The MMS's Proposed Rule alters its long-established position and deviates from the existing regulation. The Proposed Rule holds: "If you do not execute and return the lease within 11 business days after receipt, or if you otherwise fail to comply with applicable regulations, your deposit will be forfeited, *and MMS may take appropriate action to collect the full amount bid, if so provided for in the notice of sale*." (emphasis added). This increases the penalty against a successful bidder for its failure to execute an OCS lease by a multiplier of five.

The replacement of a fair and well-accepted provision providing for forfeiture of a 1/5th deposit with a new regulation providing for the payment in full for a lease that apparently will not be delivered cannot be reasonably described as a "clarification." The MMS is required under the Administrative Procedure Act to offer a rational basis for deviation from long-established regulatory and policy positions in the notice and comment process. Characterizing a significant regulatory change as a "clarification" is not an appropriate rational basis for the change. Chevron respectfully requests that Proposed Rule § 256.420(c) be modified by the deletion of the phrase "and MMS may take appropriate action to collect the full amount bid, if so provided for in the notice of sale."

We thank you for the opportunity to comment on the Proposed Rule. Should there be any questions regarding our comments, please do not hesitate to contact me.

Yours very truly,

J. Keith Couvillion